

Page 1

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 22-10964-mg

4 Adv. Case No. 23-01138-mg

5 - - - - - x

6 In the Matter of:

7

8 CELSIUS NETWORK LLC,

9

10 Debtor.

11 - - - - - x

12 CELSIUS NETWORK LIMITED,

13 Plaintiff,

14 v.

15 STAKEHOUND SA,

16 Defendant.

17 - - - - - x

18

19 United States Bankruptcy Court

20 One Bowling Green

21 New York, NY 10004

22

23 August 22, 2023

24 11:13 AM

25

Page 2

1 B E F O R E :
2 HON MARTIN GLENN
3 U.S. BANKRUPTCY JUDGE
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5 ECRO: UNKNOWN
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Page 3

1 HEARING re Adversary proceeding: 23-01138-mg Celsius Network
2 Limited v. StakeHound SA Scheduling Conference Held Using
3 Zoom for Government. (Doc ## 27, 28)

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25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

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3 AKIN GUMP STRAUSS HAUER FELD, LLP

4 Special Counsel for the Plaintiff,

5 Celsius Network Limited

6 One Bryant Park

7 New York, NY 10036

8

9 BY: MITCHELL HURLEY

10 ELIZABETH SCOTT

11

12 LOCKE LORD LLP

13 Attorneys for the Defendant, StakeHound

14 Brookfield Place, 200 Vesey Street

15 20th Floor

16 New York, NY 10281

17

18 BY: MARY STEPHANIE WICKOUSKI

19 SEAN ANDREW FEENER

20

21 ALSO PRESENT TELEPHONICALLY:

22 DEAN CHAPMAN

23 TAYLOR HARRISON

24 NICHOLAS LOMBARDI

25 MASON PALISSERY

Page 5

1 JONATHAN RABLES
2 MICHAEL STANLEY
3 VINCE SULLIVAN
4 VICTOR UBIERNA DE LAS HERAS
5 KAILA ZAHARIS
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1 P R O C E E D I N G S

2 CLERK: All right. Starting the August 22nd, 2023
3 at 11:15 a.m. calendar, calling Celsius Network Limited v.
4 StakeHound SA, Case No. 23-1138. If we could have counsel
5 for plaintiffs unmute and give their appearances, please.

6 MR. HURLEY: Good morning. Mitch Hurley with Akin
7 Gump on behalf of Celsius and Celsius' Special Litigation
8 Counsel.

9 CLERK: All right, thank you. Do we have anyone
10 else for the plaintiffs? Ms. Scott, are you -- or for the
11 defendants, just unmute one at a time and please give your
12 appearances.

13 MS. SCOTT: Good morning. Elizabeth Scott from
14 Akin Gump also special litigation counsel to the Debtors.

15 CLERK: All right. Thank you. Whoever would like
16 to give their appearance. Ms. Wickouski?

17 MS. WICKOUSKI: Good morning, Stephanie Wickouski
18 from Locke Lord on behalf of the defendant StakeHound.

19 CLERK: All right, thank you. Is it Mr. Feener?
20 Anyone else? Yeah.

21 MR. FEENER: Sean Feener on behalf of the
22 defendant from Locke Lord.

23 CLERK: Okay. Thank you. Any additional parties
24 that are speaking on the record this morning and have not
25 given their appearance yet? All right.

1 MR. HURLEY: Deanna, can I just address one
2 housekeeping issue? I should probably raise it with the
3 judge, too.

4 CLERK: Sure. Do you want it on the record or
5 not?

6 MR. HURLEY: Well, I'll just tell you first and I
7 guess after we go on, I'll tell the judge, too. It's just
8 related to the Zoom connection. So I'm dialed --

9 THE COURT: I'm in -- yeah, thank you. Okay. so
10 I'm in receipt of the letters from both Ms. Wickouski and
11 Mr. Hurley regarding scheduling and other issues and Mr.
12 Hurley, let me ask you first, any change since those letters
13 were written?

14 MR. HURLEY: No, Your Honor.

15 THE COURT: Okay. Ms. Wickouski?

16 MS. WICKOUSKI: No, Your Honor.

17 THE COURT: Okay. So let me raise a couple of
18 concerns I have and then I'm just going to give you a
19 schedule. So the -- you know, Mr. Hurley, you raised the
20 issue that StakeHound has with the term revoked or -- it
21 will no longer agree to freeze its assets as of today. And
22 so you raise that concern. What you didn't address and I do
23 specifically want to ask, are you seeking a TRO? I mean,
24 you don't have -- you have not filed papers for a TRO at
25 this point. You've asked to make a preliminary injunction

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1 motion and I'll certainly prepare to do that. But are you
2 also going to seek a TRO?

3 MR. HURLEY: Yes, Your Honor, to the extent it's
4 required. We didn't want to file it until we saw Your Honor
5 again, in light of the communication we got from the Court
6 on Friday, but we are prepared to proceed with that and
7 again, absent agreement, I think that it's necessary given
8 that. And just to be clear, my understanding from Ms.
9 Wickouski is that the agreement expires at the end of today.
10 Just to be --

11 THE COURT: Okay.

12 MR. HURLEY: -- clear on that front. But yeah.
13 Yeah. The answer is yes, Your Honor. With Your Honor's
14 permission, we would propose to do that, again provided we
15 can't reach some kind of an agreement. Which to date,
16 obviously we have been unable to do it.

17 THE COURT: Yeah. So let me -- I mean, look, you
18 either agree or you don't. If you don't, the issue is then
19 what's the Court going -- what are the parties, is Celsius,
20 is CNL going to seek further relief from the Court. Let me
21 just say that with respect to the scheduling, I'm prepared
22 to enter a scheduling order as follows, that on or before
23 August 25th StakeHound shall file the following motions and
24 supporting briefs. I mean, you don't have to write this
25 down verbatim. I've got a draft order already, Ms.

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1 Wickouski, but essentially I'm going to permit you to file a
2 motion, a brief not to exceed 25 pages. The pages limit
3 does not apply to supporting evidence or the declarations or
4 affidavits. They don't -- page limit doesn't account.
5 Requesting the Court to lift or otherwise modify the
6 automatic stay or abstain from exercising jurisdiction on
7 international comity grounds and compel the parties to
8 submit to the Swiss arbitration. I'm shortening it a little
9 bit.

10 Second, it certainly sounds that you want to file
11 a motion to dismiss for lack of personal jurisdiction and if
12 you want to do that, the same date is going to apply, 5 p.m.
13 August 25th. Motion to dismiss brief not to exceed 20
14 pages, page limit doesn't apply to any supporting evidence.
15 Okay. On or before August 25th, CNL shall file a motion
16 seeking a preliminary injunction, brief not to exceed 25
17 pages, page limit doesn't apply to supporting evidence.
18 Opposition briefs on or before September 8th Celsius shall
19 file and serve a response to the motion to compel, brief not
20 to exceed 25 pages. Page limit doesn't apply to supporting
21 evidence.

22 And also a response to the motion to dismiss that
23 same date, brief not to exceed 20 pages. Page limit doesn't
24 apply to supporting evidence. And StakeHound shall file a
25 response to the preliminary injunction motion, brief not to

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1 exceed 25 pages, page limit doesn't apply to supporting
2 evidence. And then finally, replies on or before September
3 25th. StakeHound shall file or reply in further support of
4 the motion to compel and motion to dismiss, each brief not
5 to exceed 10 pages, page limit doesn't apply to supporting
6 evidence.

7 Celsius shall file a further reply in further
8 support of preliminary injunction motion, brief not to
9 exceed 10 pages. Page limit doesn't apply to supporting
10 evidence.

11 Hearing. The Court will hold a hybrid hearing on
12 the motions on September 27th at 9 a.m. Counsel for
13 StakeHound and Celsius must appear in person. The hearing
14 will be an evidentiary hearing. Declarants must be
15 available for cross examination. Counsel shall confer and
16 seek to agree on which witnesses shall appear for cross
17 examination in Court and which may appear by Zoom. If they
18 can't agree, counsel should contact the Court, I'm thinking
19 by September 20th I'll resolve that.

20 Then the last thing and I'm still playing with
21 this language and I'll explain in a minute, only parties in
22 interest or their attorneys of record may attend the hearing
23 on Zoom. (All parties in interest or attorneys of record
24 must register in advance to attend the hearing on Zoom and
25 will be required to certify under oath that they are

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1 appearing in those capacities. The public may only attend
2 the hearing in the courthouse. This change in practice
3 regarding evidentiary hearings reflects the policies of the
4 Judicial Conference of the United States in effect on the
5 date of the hearing.)

6 The world changes for Zoom on September 21st. I
7 don't know whether anybody is going to want to -- you know,
8 there's been obviously lots of interest for Celsius
9 hearings, business press and others. They can't attend
10 evidential hearings on Zoom. They can show up in the
11 courthouse, but they can't -- anyway. I mean, the gist of
12 this is, you know, I'm -- and I know you disagree to how
13 many motions you'd have to file, Ms. Wickouski.

14 Assuming that you are, you know, you are going to
15 move to dismiss for lack of personal jurisdiction, it's got
16 to be a standalone motion. So that's the schedule that I've
17 come up with. Again, that doesn't address the issue of a
18 TRO. Certainly, Mr. Hurley, the pleadings to date support
19 Celsius' contention that StakeHound violated the automatic
20 stay, but that's just on the face of the pleadings. They
21 can certainly contest that brief against -- you know, argue
22 against it.

23 I have a separate, something separate that I'm
24 going to file. It says at the urging of the Court, the
25 party has tried unsuccessfully to reach a stipulated

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1 scheduling order to brief the issue whether the claims are
2 arbitable. They also agreed on a partial freeze of assets
3 by StakeHound to protect Celsius' claim that StakeHound is
4 improperly holding and refuses to return Celsius' assets.
5 StakeHound no longer has an operating business. Celsius
6 contends that its assets face a risk of dissipation if no
7 restraint on assets is imposed, at least pending decision
8 whether to compel arbitration.

9 Assuming that all disputed issues between the
10 parties are arbitable, a Court-ordered freeze can be
11 maintained in place until the arbitration proceeds and a
12 request for protective measures can be determined by the
13 arbitrator. You know, I go on, negotiations of an agreed
14 motion and briefing schedule are broken down. StakeHound
15 also refuses to continue a negotiated freeze of assets
16 beyond April -- August 22.

17 You know, if you're going to seek a TRO, you tell
18 me when you're going to file your papers. I'll have an
19 emergency hearing on it, but the -- you know, I'm scheduling
20 the preliminary injunction hearing for September 27th. So
21 you tell me where we are. I mean, I know Ms. Wickouski
22 didn't want to have to file so many long briefs, but they're
23 separate issues. I'd be happy, Ms. Wickouski, if you filed
24 200 briefs. These are page limits. You know, I frequently
25 tell people, less is more when it comes to briefing, so --

1 MS. WICKOUSKI: Your Honor, may I address one
2 issue --

3 THE COURT: Yeah, sure.

4 MS. WICKOUSKI: Very serious issues that I feel
5 really need to be rebutted. And with respect, Mr. Hurley
6 misrepresented our position with respect to the extension of
7 the freeze. And this is made abundantly clear by the last
8 paragraph of my letter that was filed with ECF and submitted

9 --

10 THE COURT: Yeah, I have it in front of me.

11 MS. WICKOUSKI: And we propose and this is our
12 position, is that the temporary freeze that is in place
13 right now under the one-week stipulation which has now
14 turned into a two-week stipulation will continue and we will
15 abide by it until there's a superseding order of the Court.
16 We have asked that that superseding order, at least with
17 respect to the freeze, be on the terms that we submitted,
18 which is basically a blanket freeze of all assets of
19 StakeHound with some carveouts, primarily for legal fees.

20 And it would be, I think frankly it's unseemly and
21 overreaching for the plaintiff to demand to escalate the
22 litigation including a TRO when we're agreeing to a freeze,
23 but we need assets -- access to a small fraction of assets
24 to be able to fund legal fees.

25 THE COURT: May I ask you this? I think -- let me

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1 -- Mr. Hurley's letter. Bear with me. I'm not finding it
2 now. Mr. Hurley, what did you say, 90 or 95 percent of
3 StakeHound's assets, you believe, are your -- are Celsius'?

4 MR. HURLEY: Well, it's more than that, Your
5 Honor. It's -- they -- so actually in the arbitration,
6 StakeHound itself alleges that of the ETH, just the ETH,
7 that 96 percent is contributed by Celsius. The
8 (indiscernible), we believe 100 percent of the
9 (indiscernible) in their possession is contributed by us of
10 course those are the assets where they haven't identified
11 and excused --

12 THE COURT: I have -- not I see it in your letter.
13 Okay. I see the paragraph. But how much -- what's the
14 proximate dollar amount of StakeHound assets that are not
15 alleged to be Celsius' assets?

16 MR. HURLEY: If that's directed to me, I...

17 THE COURT: Well, for either of you.

18 MS. WICKOUSKI: And, Your Honor, I can't answer
19 that question precisely. However, I do have an issue with
20 counsel testifying.

21 THE COURT: Ms. Wickouski, he's not testifying.
22 This is not an evidentiary hearing. If and when we have an
23 evidentiary hearing you each can put on your proof. Can you
24 tell me, Ms. Wickouski, how much of StakeHound's assets do
25 you believe are free of any claim by Celsius?

1 MS. WICKOUSKI: Well, we believe -- and I don't
2 have a dollar amount for this -- but we believe that the
3 rewards that are being claimed are not -- that there's no
4 ostensible claim, even under Celsius' theory.

5 THE COURT: Here's what I'm trying to get; if you
6 can't work this out longer term, I'll set it down for --
7 I've given you the schedule on a preliminary injunction.
8 The issue is how do we get from now until then? I don't
9 have a TRO motion. There's no competent evidence in front
10 of me. I'm not going to issue a TRO today -- full stop.

11 But what I'm trying to explore with you both is --
12 and I don't know whether you've talked about this... I'm not
13 saying that Celsius is going to get a TRO, but if you can
14 each agree for these purposes, not necessarily for purposes
15 of a preliminary injunction hearing, if you represent that
16 StakeHound's non-Celsius assets are approximately X dollars,
17 will that be sufficient to cover legal fees until you get to
18 the September 27th hearing?

19 MR. HURLEY: I think I understand the question,
20 Your Honor, is there were assets that Celsius doesn't
21 contend that it contributed to StakeHound.

22 THE COURT: Right.

23 MR. HURLEY: And the value of the assets that
24 Celsius doesn't contend it contributed to StakeHound. I
25 understand. I guess would be in the couple of million

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1 dollar range I think. That's speculating I guess to some
2 degree on my part. We do have...

3 THE COURT: Does that get you to a hearing on --
4 you can't resolve it fully. Let me say one other thing
5 before you go on. And I read you something quickly about
6 this. I believe if this is arbitrable -- I'm not saying it
7 is, I don't know, you haven't briefed it or not -- I think
8 they have -- I read the contract. It looked to me like a
9 broad form arbitration clause. So because I've done this
10 before, I can -- I'm quite comfortable, I have the authority
11 to issue a preliminary injunction to preserve assets pending
12 -- arbitrators have the authority, unless you convince me
13 that the Swiss arbitration center doesn't provide this
14 authority, they have the authority to issue protective
15 measures. And so what I would say is, okay, if the disputes
16 are arbitrable, I might be persuaded to grant a preliminary
17 injunction that freezes assets to some defined amount until
18 the arbitration. And then the arbitrator will decide. The
19 arbitrator is going to decide whether there ought to be
20 protective measures or not. Okay.

21 What I view my goal, if it's arbitrable -- I
22 haven't reached -- you know, you haven't briefed it yet. If
23 it's arbitrable, my goal would be protect the assets until
24 the arbitrator decides what if any protective measures to
25 impose. That's if it's arbitrable. You know, you believe

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1 it's arbitrable, Ms. Wickouski, Mr. Hurley says no. You
2 know.

3 Look, my schedule is really tight. Okay? These
4 dates that I've given you, I think if -- the hearing date is
5 pretty firm from my standpoint. If the two of you want to
6 adjust somewhat the briefing schedule and you agree on it, I
7 am open to that. We're not going to go back and forth.
8 Okay? I'll enter this order with a schedule and I'll add a
9 sentence that says, you know, something about letting the
10 two of you -- if the two of you agree on a modification of
11 the briefing schedule as long as I have -- the one thing I
12 always insist on, I have everything I need sufficiently in
13 advance. If the two of you want to work -- and maybe you
14 can settle the whole dispute in the meantime rather than
15 spending all your time writing motions in the next few days.

16 MR. HURLEY: May I make a suggestion on the TRO,
17 Your Honor?

18 THE COURT: Sure.

19 MR. HURLEY: So if Ms. Wickouski can commit to say
20 another day or two of honoring the current terms -- and I'm
21 not sure exactly what she said a moment before. Maybe she
22 is suggesting she already has made that commitment, and so I
23 didn't understand it that way. But if she can commit to
24 that for another couple of days, and let's say you give us a
25 hearing date on the TRO for maybe, you know, tomorrow or

1 Thursday or whenever is convenient for Your Honor --

2 THE COURT: I should add to this. I am on a train
3 to Washington DC at 3:00 today. That's why we're having
4 this hearing right now.

5 MR. HURLEY: Okay.

6 THE COURT: The Federal Judicial Center has a
7 conference for chief judges of district bankruptcy courts.
8 I will be there until Friday afternoon. If we had to have a
9 TRO, you'll be doing it in the evening or very early morning
10 before I'm in the sessions for chief judges. So it's not
11 like I'm going to be sitting here at my desk. But if I have
12 to have a TRO hearing, we'll have a TRO hearing. It may not
13 be the most convenient time of the day for either of you,
14 but you'll get it. Okay? I'm hoping you can work it out.

15 MR. HURLEY: Yeah. That's what I was going to
16 suggest. Is if we have a date for a hearing and if it's
17 maybe Friday afternoon if Ms. Wickouski is --

18 THE COURT: It's not going to be Friday afternoon.
19 I'm going to be on a train on the way back to New York on
20 Friday afternoon. Okay.

21 MR. HURLEY: I should say whenever is convenient
22 for Your Honor. And then I promise I will immediately get
23 on the phone with Ms. Wickouski and see if we can avoid
24 having to have that TRO hearing. Perhaps there is a way for
25 us to reach agreement in advance. But I think it makes

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1 sense to have it on the calendar so that if we can't, then
2 we can just proceed with the submission.

3 THE COURT: When are you going go -- look, proceed
4 with submission. I've got to read papers. Okay? And I'm
5 going to be reading papers while I'm at meetings that I have
6 to attend. I'll do it.

7 MR. HURLEY: We can certainly submit the papers as
8 soon as tomorrow if that is soon enough.

9 THE COURT: Yes.

10 MR. HURLEY: And, you know, it would of course be
11 very helpful if Ms. Wickouski could confirm that for the
12 next couple of days that StakeHound at least is going to
13 continue to honor the current agreement. Again, she may
14 have already said that, and I apologize if she did. And I'm
15 just belaboring the point.

16 MS. WICKOUSKI: Well, Your Honor, just to address
17 this, this was in our last paragraph of our letter. And we
18 said that we commit to extend the phrase on the current
19 terms until the Court enters a superseding order. And in
20 the superseding order that we proposed, basically I think
21 the only thing that I think would be different in what Mr.
22 Hurley is asking for is no carveouts. We've asked for
23 carveouts for two things. One is legal fees. And I'm not
24 the only counsel. The other one is some operating expenses.

25 I know Mr. Hurley says that StakeHound is not

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1 operating, but StakeHound I think he would admit has
2 equipment that needs to be maintained. And there's small
3 costs associated with that.

4 Maybe we can quibble about the numbers, but when
5 we were making that proposal, Your Honor, I did not know and
6 had no way of knowing what kind of timeframe we would be
7 looking at. So we were conservative in terms of asking for
8 a high enough number in case this went on into September or
9 even October.

10 You know, with that said, I note what Mr. Hurley
11 said in response to Your Honor's question that he even --
12 even Celsius admits that at least a couple million dollars
13 of assets they have no claim on. And the amount of
14 carveouts that we have proposed are far less than that. I
15 think our carveouts were --

16 MR. HURLEY: Sorry, that --

17 THE COURT: Let her finish, Mr. Hurley.

18 MR. HURLEY: Apologies. Apologies.

19 THE COURT: Let her finish. Mr. Hurley, let her
20 finish.

21 MS. WICKOUSKI: I'm not sure why we are taking the
22 Court's time on a TRO when what we are proposing is well
23 within what StakeHound could even essentially present. We
24 would agree to a phrase on those terms.

25 THE COURT: I'll decide what I have to decide.

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1 Okay? It makes more sense if you work this out. It just
2 seems to me that if there are several million dollars in
3 value that, Mr. Hurley, you and your client think, okay,
4 those are -- that amount is not an amount that Celsius has a
5 good claim for --

6 MR. HURLEY: So I just --

7 THE COURT: -- agree to a dollar carveout, I would
8 like to get you to -- unless you can resolve everything, I
9 would like to get you to a hearing date that I gave you in
10 September. You know.

11 MR. HURLEY: Can I just clarify two things? One
12 is that it's not that Celsius doesn't contend it has a claim
13 to it. So Celsius' claims are valued at \$160 million plus.
14 And our understanding is that the only assets they have
15 amount to about \$90 million. So we think our claims are
16 massively in excess of any assets that they have.

17 I also want to be crystal clear. I don't know how
18 much other customers contributed other than what I've seen
19 in the StakeHound arbitration demand which alleges that we
20 contributed 96 percent of the ETH. So what I said before.
21 I mean, I have no idea whether that's right or wrong. It
22 would be consistent with my understanding of the math if
23 that allegation is correct. So I just want to be clear
24 about that.

25 If we get a hearing date -- and I thank Ms.

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1 Wickouski for clarifying. Perhaps I should have understood
2 that from her letter, that she is -- they are going to be
3 bound by the current agreement until further order of the
4 Court. That gives us a little bit more breathing room. We
5 certainly can get papers in tomorrow, Your Honor. And if
6 there's a date you have or a time -- I know you don't have
7 much time. But if there is a time that you can provide us,
8 we will work in good faith both towards getting the papers
9 you need and trying to avoid you having to hear it.

10 THE COURT: Hang on.

11 Okay. I took this time to look at my schedule in
12 D.C. And I'll be at the administrative office, so I'll have
13 a good internet connection.

14 If you're going to proceed with a TRO, all papers
15 must be filed by tomorrow, Wednesday, at 3:00 p.m. And the
16 hearing would be on Thursday at 5:00 p.m. That's when my
17 meetings end for the day. I won't be particularly happy
18 having to hear it, but that's when I would be available.
19 I'll have to arrange for -- tentatively for an ECRO operator
20 here at this court to be available so that the hearing would
21 be recorded.

22 And I would just say, Mr. Hurley, that any TRO
23 application has to be supported by competent evidence,
24 declarations by people with personal knowledge. Any
25 exhibits they're relying on have to be appropriate.

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1 Foundation has to be established in those documents. I
2 don't intend to hear live testimony. The TRO hearing will
3 be based on papers only. And so in the limited time
4 available, I will scrutinize it and make sure that any
5 assertions you make are supported with competent evidence.

6 MR. HURLEY: Understood, Your Honor. We
7 appreciate the accommodation on the schedule. We will do
8 our best to work through it.

9 THE COURT: And what I would ask is I am hopeful
10 that you'll be able to work these issues out to get
11 yourselves to a hearing on September 27th at 9:00 a.m. And,
12 you know, as I say, if it's -- and I do think that -- let's
13 put aside the preliminary injunction. Even, you know, the
14 motion to dismiss for lack of personal jurisdiction requires
15 evidence. The motion to compel arbitrations are going to
16 require evidence. So that's going to be an evidentiary
17 hearing. Hopefully it will be a shorter evidentiary
18 hearing, but it will be an evidentiary hearing.

19 What I will do is before I leave for the train or
20 right after my clerks will make sure that the scheduling
21 order, briefing and scheduling order gets entered.
22 Obviously if you're able to resolve the preliminary
23 injunction issues, okay, so be it. That won't go forward.
24 I assume that Ms. Wickouski and her client want to go
25 forward with the motion to compel arbitration. And I had

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1 indicated at prior hearings I was prepared to move
2 expeditiously, more forward expeditiously to do that. I
3 think the schedule I'm giving you I think does that.

4 MR. HURLEY: Understood, Your Honor. With respect
5 to the TRO, we appreciate the accommodation on your
6 schedule. We will do our best to work with Ms. Wickouski to
7 see what we can do between now and then.

8 THE COURT: Okay, Ms. Wickouski, anything you want
9 to add?

10 MS. WICKOUSKI: No, Your Honor. Just I thank the
11 Court for accommodating us in terms of this expedited
12 schedule for the motion to compel. Our clients are very
13 appreciative.

14 THE COURT: I'll say one other thing that's just
15 consistent with what I said at a prior hearing, you
16 obviously reserved your right to move to dismiss for lack of
17 personal jurisdiction. I made some comments at the prior
18 hearing. It seemed to me that on the four corners of the
19 complaint Celsius appears to allege a prima facie basis for
20 personal jurisdiction over StakeHound. That's just bad.
21 It's not in evi... The standards that a court can use on a
22 motion to dismiss for lack of personal jurisdiction, you
23 look at the pleadings, yes, sometimes you'll hear evidence
24 on it. You may or may not want to go forward with that.
25 You can, if you and your client feel that there is no

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1 personal jurisdiction you'll make that motion and that will
2 be one of the things I'll hear and decide.

3 MS. WICKOUSKI: I understand, Your Honor. We are
4 somewhat constrained to preserve the argument to the extent
5 that we have an argument.

6 THE COURT: Sure.

7 MS. WICKOUSKI: So, we're not seeking to burden
8 the Court with another motion just to preserve our...

9 THE COURT: I'm not trying to take anything away
10 from StakeHound on this. If they believe they have got a
11 basis for it they can't sit on it. If they're going to
12 assert it, they need to go forward and do that. It can be
13 waived. If they litigate -- anyway, I'm not trying to tell
14 you not to make that motion. If you are going to make it,
15 make it and I'll decide it.

16 MS. WICKOUSKI: Understood, Your Honor. Thank
17 you.

18 THE COURT: Alright. So, probably what I'm going
19 to do is enter two separate documents; one is the scheduling
20 order and one we'll just refer to what we talked about at
21 the hearing today. Please, if you're able to work things
22 out so that we don't have to have a TRO hearing -- I mean,
23 it's not only me, but I've got to arrange for an ECRO
24 operator to work late at the Court on Thursday.

25 MR. HURLEY: Understood, Your Honor.

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1 THE COURT: Alright. Thanks very much.

2 MR. HURLEY: Thank you.

3 MS. WICKOUSKI: Thank you, Your Honor.

4 (Whereupon these proceedings were concluded at
5 11:45 AM)

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1 C E R T I F I C A T I O N

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3 I, Sonya Ledanski Hyde, certified that the foregoing
4 transcript is a true and accurate record of the proceedings.

5

6 *Sonya M. Ledanski Hyde*

7
8 Sonya Ledanski Hyde

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19

20 Veritext Legal Solutions

21 330 Old Country Road

22 Suite 300

23 Mineola, NY 11501

24

25 Date: August 28, 2023